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**WETLANDS DEMYSTIFIED**  
Activities In Wetlands As A “Matter of Right”  
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In our last installment we described in very brief laymen’s terms wetlands soils and watercourses. Also discussed were some responsibilities of the wetlands permit applicants and resources available to applicants to determine if a permit application is needed. (For more details concerning application specifics consult our web-site at [www.pomfretct.org](http://www.pomfretct.org).)

As we have said, most property owners know if there are wetlands or watercourses on their property and if their project falls within a “regulated area” and thus needs a wetlands permit. But are there circumstances outside of the commission’s jurisdiction where one does not need an approved wetlands permit even though the activity will be in or at least impact on a wetland or watercourse? Under Title 22a of the Connecticut General Statutes as stated in Section 4 of our regulations there are permitted uses in wetlands as a “matter of right”. There are also activities allowed in wetlands and watercourses that are not considered as a “regulated activity”. But once again who makes the decision? After all, if it says in the wetlands regulations that it is my right to do something why can’t I just do it? As usual, where wetlands issues are involved, there are no simple answers. What are some of these rights and what are non-regulated activities?

The statutes and our regulations concerning these rights are rather specific and one would think clearly stated. For example, one has the right to grazing (farm animals as defined by State Statute) farming, operating nurseries, gardening and harvesting of crops, in wetlands and /or watercourses to include farm ponds of three acres or less considered essential to the farming operation. Let’s stop here to answer some fundamental questions. What does grazing mean? Grazing is defined by the dictionary as “to put (livestock) to feed on growing grass, herbage, etc.” Farms and nurseries are places where products or plants are raised for sale. The definition of gardening and harvesting of crops includes the definitions of farming and nurseries with the addition that a crop is defined as “the yield of any product (i.e. corn, hay, apples, etc.) in one season or place. With the possible exception of grazing of farm animals, farming and nurseries are commercial enterprises. To meet the “as of right” criteria under these circumstances one must have a bono fide business permit. But there is more. The State Statutes do not allow roads or the erection of buildings not directly related to farming operations in wetlands, relocation, filling or reclamation of (perennial) watercourses, clear cutting of timber except to extend a crop land (remember the definition of crop), or the mining of soils from wetlands and watercourses for sale. So how does all of this apply to you and the need for a wetlands permit? It is the commission’s responsibility to determine if the activity you propose is a

matter of right under its regulations, and only through the permitting process can this be done.

Section 4.1b,c of the wetlands regulations discuss certain residential rights prior to 1987 and boat anchorages, dock construction, etc. For the most part these provisions in State law do not apply to Pomfret. But Section 4.1d may be important to those who enjoy “uses [in wetlands] incidental to the enjoyment or maintenance of (their) property. Such uses include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or into wetlands or watercourses, or diversion or alteration of a watercourse. What is significant in terms of amount? Again the commission is responsible for making that judgment not the property owner. While the activity may be permitted, a wetlands permit is required. The wetlands statutes define other circumstances that are considered a matter of right, but most are either technical or do not apply to the average citizen of Pomfret. For information concerning these conditions please consult our web-site.

We mentioned earlier that there were some activities under State law that are permitted as “non-regulated” uses of wetlands and watercourses. But as always there are restrictions. The most important restriction is that such uses do not disturb the natural or indigenous character of the wetland or watercourse or allow the removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse. There are some circumstances that may involve wetlands or watercourses conservation such as preventing soil erosion along stream banks or some recreational activities that may be considered as non-regulated. But it is the commission that must decide if such activities are regulated or not as part of its review process. Remember that our staff is available to provide you assistance if needed.

We mentioned in our last article that we would discuss wetland and watercourse buffers or set backs as they are also known in this article. But because these buffers are so important to the protection of wetlands it was decided not to add to the readers burden this time but defer this topic to our next article. We hope you will stay tuned. The protection of our vital and irreplaceable wetlands and watercourses is our commission’s mandated mission by State law. In our small Town this is of great importance to every concerned citizen. Let us know your thoughts.